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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/074,916 | 02/12/2002 | Claude Weisbuch | 46190/244201 | 8448 |
| 826 | 7590 | 07/14/2004 | EXAMINER | |
| ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000 | | | | BEN, LOHA |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2873 | |

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|-----------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/074,916 | WEISBUCH ET AL. |
| | Examiner | Art Unit |
| | LOHA BEN | 2873 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10 January 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-47 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-7 and 9-47 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.



Loha Ben
Primary Examiner

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

Response to Amendment

The Amendment to the claims dated January 10, 2004 has created a new 112/2nd situation. Uncertainty and confusion in claim language are noted.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7, and 9-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1: line 5, the phrase “consisting or comprising” has introduced an uncertainty as to the definiteness of the limitations.

In claim 2: it is not clear whether the “reflective means” recited on line 2 is the same reflective means of claim 1.

In claim 3: it is not clear whether the “microlenses” recited on line 2 are the same microlenses of claim 1.

In claim 4: similar situation as above, as to the diffraction means, is noted on line 2.

In claim 5: are the first and second mirrors of the claim the “first and second mirror means” of claim 1? Is the resonant cavity of the claim the resonant cavity of claim 1?

In claim 9: on line 2, is the recited resonant cavity the resonant cavity of claim 1?

In claim 10: line 2, are the two mirrors recited the first and second mirror means of claim 1?

In claim 34: lines 2 and 3, is the reflective means recited the reflective means of claim 1?

In claim 35: If claim 35 depends on claim 31, the reflective means recited on lines 3 and 4 is not the reflective means of claim 34. Is it?

In claim 45: line 3, it is not clear what distance is being called for. See claim 44.

The remaining claims depending directly or indirectly from rejected base claim 1 inherit the indefiniteness thereof.

Minor suggestions made on informality noted in the claims

In claim 1: line 6, "its" should be replaced with – said --; and line 15, "surface" should be – face --.

In claim 24: line 2, "a" should be replaced with – one of --, and "resonator", with – resonators --.

In claim 31: line 3, "detecting" should be replaced with – detection --. See line 2 of the claim.

In claim 38: line 2, "a" should be deleted.

In claim 39: line 1, "comprising a" should be replaced with – wherein --, and line 2, "for supplying" should be replaced with – supplies --.

In claim 47: line 1, before "reflective", -- first – should be inserted.

Art Unit: ***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

NOTE:

Due to the confusion of the claim language, Reasons for Allowance cannot be provided at this time.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Loha Ben whose telephone number is (571)272-2323. The examiner can normally be reached on Monday to Saturday, generally between 12:00 noon and 8:00 p.m.

Art Unit: ***

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps, can be reached on Monday to Friday, at (571)272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 11, 2004



Loha Ben
Primary Examiner